

The third reading of the Bill was ordered to come on at the next meeting of the Council.

The Council met at Bombay on Friday, the 13th November, at mid-day.

The Honourable Mr. ELLIS, in moving the third reading of Bill

Mr. Ellis moves that the Bill for City Surveys and Amendment of Bombay Survey and Settlement Act, 1868, be read a third time.

No. 3 of 1868 (*a Bill to make further provision regarding the application of (Bombay) Act No. I. of 1865 to Towns and Cities; and to restrict the application of (Bombay) Acts Nos. II. and VII. of 1863 in Towns and Cities; and otherwise to amend (Bombay) Act No. I. of 1865*), said there were two verbal alterations that were necessary in the Bill. In Section XVI., line 2, the words were, "Section XLV. of Act I. of 1865 is hereby repealed." It should be "Section XLV. of (Bombay) Act," &c. The same amendment had to be made in Clause 3, line 58, of Section XVII.

Bill read a third time and passed.

These amendments were made, and the Bill was read a third time and passed.

BOMBAY.

ACT No. IV. OF 1868.

PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL.

[Received the assent of the Governor of Bombay on the 4th December 1868, and of the Governor General on the 11th January 1869, and published by the Governor of Bombay on the 28th January 1869.]

An Act to make further provision regarding the application of (Bombay) Act I. of 1865 to Towns and Cities; and to restrict the application of (Bombay) Acts II. and VII. of 1863 in Towns and Cities, and otherwise to amend (Bombay) Act I. of 1865.

WHEREAS it is desired to make further provision regarding the application of Bombay Act I. of 1865 to

Preamble.

Towns and Cities, and to restrict the application of (Bombay) Acts II. and VII. of 1863 and I. of 1865 in Towns and Cities, and otherwise to amend (Bombay) Act I. of 1865: It is enacted as follows:—

Bombay Act I. of 1865 applicable to Towns and Cities.

I. (Bombay) Act I. of 1865 is hereby declared applicable to Towns and Cities.

(Bombay) Acts II. and VII. of 1863 not to be applied to Towns and Cities except so far as is provided in this Act.

II. (Bombay) Acts II. and VII. of 1863, except in so far as they repeal former Regulations, shall not after the passing of this Act be applied to Town and Cities except so far as is provided in this Act.

III. Subject to such rules as may from time to time be prescribed by Government, the Assessment on assessable lands in Towns and Cities, whether imposed under (Bombay) Act I. of 1865 or any other Act for the time being in force, may be fixed for a term of years or in perpetuity, anything in Section XXVIII. of the (Bombay) Act I. of 1865 notwithstanding.

IV. The existing right of occupancy of all lands in Towns and Cities is hereby confirmed so far as the interest of Government is concerned, only excepting the case of encroachments, as provided for in Section VIII. of this Act.

Collector to confirm existing exemption from the payment of Government Land Revenue in the following cases.

V. *Clause I.*—In Towns and Cities the Collector shall, on the application of the owner or occupant, confirm existing exemption from the payment of Government land revenue in the following cases; that is to say :—

1st.—In any Town or City where there has been in former years a survey which Government recognize for the purposes of this Section, all lands shown in the Maps or other records of such survey as being held wholly or partially exempt from the payment of Government Land Revenue.

2nd.—In any Town or City all lands shown on summary inquiry before the Collector to have been held wholly or partially exempt from the payment of Government Land Revenue for a period of not less than 5 years before the application of (Bombay) Act I. of 1865 or of this Act to such Town or City.

3rd.—In any Town or City, lands, for whatever period held, shown on summary inquiry before the Collector to have been held partially or wholly exempt from payment of Government Land Revenue under a deed of grant or of confirmation issued by an officer whom Government recognize as having been competent to issue such deed.

Clause II.—A Sunnud from the Collector certifying that one or other of the conditions above stated has been fulfilled shall be sufficient proof of a right to exemption, and such Sunnud shall be produced by any occupant making application under the preceding Clause.

VI. In any Town or City all other lands, not coming within the provisions of Section VII. of this Act, which have been held for a period of less than 5 years preceding the date of the application of (Bombay) Act I. of 1865 or of this Act to such Town or City, will be liable to be assessed to the full amount of the Survey Rates, and if such lands have been held for a period of less than two years preceding the said date, the holder will also be liable to pay the occupancy valuation to be determined according to the rates prevalent in the immediate neighbourhood.

VII. Nothing in the two last preceding Sections shall be held to be applicable to those lands within the limits of any Town or City which have hitherto been held wholly or partially exempt from the payment of Government Land Revenue and used for cultivation only. Such lands shall be dealt with in the ordinary manner under (Bombay) Acts II. and VII. of 1863: Provided always that such portion of the land as may hereafter be built upon shall become subject to payment of one-eighth of the rate fixed for land used for building purposes.

VIII. In Towns and Cities any land, proved on summary inquiry before the Collector to be an encroachment on any public street or thoroughfare, may be taken possession of by the Collector, unless such land is shown to have been held for a period not less than 12 years. It shall be lawful for the Collector to clear such land by the removal of any buildings or other obstructions, in the event of the owner, after receiving written notice of not less than one month, failing to do so himself.

When land is taken possession of under this Section reasonable compensation shall be given to the owner in respect of all buildings, if such buildings are proved to have been erected previous to the application of (Bombay) Act I. of 1865, or of this Act: Provided always that it shall not be necessary to give compensation in respect of the removal of

door-steps, benches, or other similar projections of whatever material; and provided also that in the case of the owner not accepting the sum tendered as reasonable compensation by the

Collector, compensation shall be fixed under the provisions of Sections 10 to 31 of Act VI. of 1857.

IX. In Towns and Cities to which (Bombay) Act I. of 1865 or this Act has been applied, it shall be lawful for any duly authorized Survey Officer to enter when necessary for the purposes of measurement, fixing boundaries, or for any other purpose connected with the Survey and Settlement, any lands or premises, whether belonging to Government or to private individuals and whether assessed to the public revenue or not: Provided always that no building used as a human dwelling shall be entered, unless with the consent of the occupier thereof, without a notice having been served at the said building not less than 7 days before such entry; and provided also that in the case of buildings of all descriptions due regard shall be paid to the social and religious prejudices of the occupiers.

X. It shall be the duty of the Collector, after inquiry, to issue, under his hand and seal, to each owner or occupant in any Town or City to which this Act shall be made applicable, on application, a Sunnud or Sunnuds specifying, by plan and description, the limits and tenure of such person's holding. The fee for such Sunnuds shall be fixed by Government, and shall not exceed Rupees 5 for each survey number.

XI. In Towns and Cities all roads and lanes and all open spaces not in the occupation of any person, and not proved to be the property of any person, vest in Government; and it shall be lawful for the Collector, subject to the orders of the Revenue Commissioner, to dispose of them in such manner as may be authorized by general rules sanctioned by Government, with due regard to common and pasturage rights and not so as to deprive any householder of a thoroughfare to his house without reasonable compensation.

XII. Any or all of the powers which under this Act may be exercised by a Collector may by him be delegated in writing to any Assistant or Deputy Collector, or any Survey Officer of not lower rank than a Sub-Assistant Superintendent of Survey. Any Officer thus empowered shall in respect to Section VII. of this Act exercise all the powers of a Collector under (Bombay) Acts II. and VII. of 1863; but all his proceedings shall be subject to review by the Collector himself. The Collector, or

any Assistant or Deputy Collector empowered as above, shall for the purposes of inquiries under this Act, exercise the powers of a Survey Officer under (Bombay) Act I. of 1865.

XIII. The maps and land registers of the Survey and Settlement in Towns and Cities shall be open to the inspection of the public at reasonable hours; and extracts from such maps and registers shall be given to any applicant on payment of such fees as may be prescribed by Government from time to time.

Maps and land registers open to inspection.

Extract shall be given.

XIV. In Towns and Cities, in cases in which separate boundary-marks are not erected, the period of six months for appeal under Section XIV. of (Bombay) Act I. of 1865 shall be reckoned from the date of the decision of the Officer fixing the boundary being communicated to the parties concerned, and such appeal shall be made to the Collector.

Section XIV. of (Bombay) Act I. of 1865 amended.

XV. Any person whose attendance shall lawfully be required by general notice, or by summons under Section 10 of (Bombay) Act I. of 1865, shall be legally bound to attend in person or by agent in obedience to such notice or summons.

Persons when legally bound to attend, and produce documents.

And any person who shall lawfully be called on, under Section XIV. of (Bombay) Act I. of 1865, to produce any document for inspection, shall be legally bound to produce such document.

XVI. Section XLV. of (Bombay) Act I. of 1865 is hereby repealed.

Section XLV. of Bombay Act I. of 1865 repealed.

XVII. *Clause I.*—In case of a decree of a Civil Court for the division of an estate under Section 225 of the Civil Procedure Code, or by any other process of law, the following rules shall be enforced by the Collector for the partition of an estate:—

Rules for partition of an estate paying revenue to Government.

Rule 1.—The estate shall be divided according to survey numbers, or recognized shares of survey numbers, as far as may be possible without dividing any number or recognized share of any number.

Rule 2.—When the decree cannot be equitably executed without the sub-division of a number or recognized share of a number, the Collector shall sub-divide any number, or recognized share of a number: provided that no number or recognized share of a number shall be made of less extent than a minimum to be fixed from time to time in each district, for the several classes

of land, by the Commissioner of Survey and Settlement, with the sanction of Government. A record of the minima fixed shall be kept in each Talooka Kutcherry and shall be open to the inspection of the public at reasonable hours.

Rule 3.—The decree of the Court having been carried out, so far as may be, by assigning to the several parties concerned numbers and recognized shares of numbers, and newly subdivided numbers and recognized shares of numbers, to such extent as sub-division may be permissible without infringing the foregoing proviso, the Collector shall, in respect to any number or recognized share of a number which may remain unassigned and undivided, refer to the Court giving the decree, and according to the decision of the Court he shall either transfer such number or recognized share of a number undivided, to any party named by the Court, or sell it undivided, with its rights and liabilities, and pay over the proceeds as the Court may direct.

Sub-division at revision
of survey and settlement.

of a number or recognized share of a number, subject to the

Proviso.

(Bombay) Act V. of
1862 not affected by this
Section.

Clause 2.—At the time of a revision of survey and settlement it shall be lawful for a Survey Officer to make a sub-division of a number or recognized share of a number, subject to the proviso in Rule 2 in the preceding clause: provided always that no such sub-division shall be made without the consent of the occupant.

Clause 3.—Nothing in this Section shall affect the provisions of (Bombay) Act V. of 1862.

XVIII. *Clause 1.*—Whenever there are sharers in an estate held on Talukdaree tenure in Guzerat, and the sharers being agreed as to the proportion of their respective interests in such estate, a majority of the sharers represented by those whose interest extends to more than one half of the entire estate consent to a division, it shall be lawful for a Collector or Officer empowered by him to divide the lands of such estate according to the proportion of the interest of the several sharers therein, the rules in the last preceding section being duly observed.

Division of lands of an
estate having sharers
and held on Talookdaree
tenure in Guzerat.

Clause 2.—The cost of division and demarcation of shares shall be recoverable as a revenue demand in proportion to their interest from all the shares in the estate divided.

Cost how recovered.

XIX. Whenever by virtue of Section XLIX. of (Bombay)

Notification extending Act I. of 1865 to an alienated village shall show by whom the power or duties incident to the provisions extended shall be exercised.

Act I. of 1865, Government shall extend by Notification all or any of the provisions of the said Act to any alienated village, it shall be lawful to direct in such Notification or in any subsequent Notification by whom any powers or duties incident to the provisions so extended shall be exercised or performed, and also, in such Notification to introduce any other directions which may be deemed requisite for carrying such provisions into operation in the place to which they are extended.

Section LI. of (Bombay) Act I. of 1865 repealed

XX. Section LI. of Bombay Act I. of 1865 is hereby repealed.

XXI. The words "Towns and Cities" shall for the purposes

Interpretation clause.
"Towns and Cities."

of this Act, include all lands in Towns and Cities within such limits as Government shall from time to time notify, and no others.

The word "Lands" in this Act, and in (Bombay) Acts II. and

"Lands."

~~permanently~~ fastened to any thing which is attached to the earth, or land and things attached to the earth, or per-

Whenever (Bombay) Act I. of 1865 is applied in Towns and

"Village."

Cities, the word "Village" in that Act shall be held to include Towns and Cities.

Act not to apply to the City of Bombay.

XXII. This Act shall not apply to the City of Bombay.

XXIII. This Act may be cited as the "Act for City Surveys

Short Title

and amendment of Bombay Survey and Settlement Act, 1868 "

No. 1690

by Commissioner's Order

Shimoda District

8th July 1900.